

FILED '08 OCT 17 14:48 USDC-ORE

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

ELAINE BEAM,

Plaintiff and  
Counter-defendant,

Civil No. 07-6035-TC

v.

FINDINGS AND  
RECOMMENDATION

UNITED STATES GOVERNMENT,  
et al.,

Defendants, Counter-  
Claimants, and Third-  
Party Plaintiffs,

v.

ERIC BEAM, et al.,

Third-Party Defendants.

COFFIN, Magistrate Judge.

On August 28, 2008. the United States filed a Motion for

Summary Judgment (#76) as to its counter-claims in this case. The motion was taken under advisement by the court on September 29, 2008. Third-party defendants have not responded to the motion on the merits. Third-party defendant Elaine Beam has filed an "objection" to the motion which is construed as a motion for extension of time in which to respond (#76)<sup>1</sup>.

The United States' motion is not "premature" as alleged by Ms. Beam. No viable defenses have been suggested. Discovery deadlines have passed and trial is scheduled. The third-party defendants have been allowed numerous extensions of time and the extensions have not served any useful purpose. It is time to address the issues in this case.

Third-party defendants' "Objection" (motion for extension of time to respond) (#76) is denied.

The Counterclaim and third-party claims in this case are brought by the United State to foreclose federal tax liens on four parcels of real property.

The relevant facts are set forth in the United States

---

<sup>1</sup>Elaine Beam, individually, and as the Personal Representative of the Estate of Floyd W. Beam, and Sunbeam Investment Company are the only remaining third party defendants in this case. Third party defendant State of Oregon was dismissed by stipulation of the parties (#70). See, Order (#71) entered April 30, 2008.

Concise Statement of Material Facts (#77).

The United States un-controverted facts and exhibits establish that the remaining third party defendants are indebted to the United States for tax, interest, and penalties assessed for each of the tax years set forth in the Concise Statement of Material Facts (#77), plus additional statutory interest and other statutory additions as provided by law. The uncontradicted evidence also establishes that the United States has valid liens and that it is entitled to foreclose against the real properties described in the Concise Statement of Material Facts (#77).

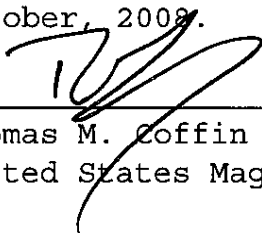
I find based on the record before the court that there are no genuine issues of material fact remaining in this case and that the United States is entitled to judgment as a matter of law reducing the assessments against the third party defendants for the tax years at issue in this action to judgment, and foreclosing its federal tax liens against the real properties described in the United States Concise Statement of Material Facts.

The United States Motion for Summary Judgment (#76) should be allowed. A Judgment against Floyd W. Beam and Elaine M. Beam and an Order for Judicial Sale, in the form(s)

proposed by the United States should be entered.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have ten days from the date of service of a copy of this recommendation within which to file specific written objections. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issue and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judges's recommendation.

DATED this 17 day of October, 2008.

  
\_\_\_\_\_  
Thomas M. Coffin  
United States Magistrate Judge